

### **REMARKS / DISCUSSION OF ISSUES**

Claims 1 – 6 and 8 – 10 are pending in the application. Claims 1, 4 and 8 are independent.

In the present response, claims 1, 4 and 8 are amended. The support for the claim amendments may be found in Applicants' specification, for example, page 6, lines 12 – 22. No new matter is added.

#### **35 U.S.C. 102**

The Office Action rejects claims 1, 4 and 8 under 35 U.S.C. 102(e) over Shuster (US Pat 6,826,546 B1).

Applicants submit that for at least the following reasons, claims 1, 4 and 8 are patentable over Shuster.

For example, claim 1, in part, requires:

*“if multiple second fingerprints are matched that have a mathematical distance measure less than a predefined limiting distance from the first fingerprint, calculating a digital watermark associated with the first data sequence and comparing the calculated digital watermark with watermarks respectively associated with the matched multiple second fingerprints' respectively associated second digital data sequences in order to establish an identity of the first digital data sequence; otherwise, the first fingerprint is established as unique.”* (Emphasis added)

Shuster, Fig. 1 elements 144, 148 and 152; column 6, lines 15 – 19; column 6, lines 37 – 38, discloses a comparison of a check sum with known check sums to determine whether there is a match. Applicants submit that such comparison does not involve any mathematical distance measure. Nothing in Shuster discloses that a mathematical distance measure is used for determining whether there is a match, or that a predefined limiting distance is used as a criterion to determine whether there is a match or not. Therefore, Shuster fails to disclose the above claimed features.

In view of at least the foregoing, Applicants submit that claim 1 is patentable over Shuster. Independent claims 4 and 8, although different from, and should be interpreted independently of claim 1, contain many similar distinguishing features as in claim 1. Applicants essentially repeat the above arguments for claim 1 and apply them to claims 4 and 8, pointing out why claims 4 and 8 are also patentable over Shuster.

Withdrawal of the rejection of claims 1, 4 and 8 under 35 U.S.C. 102(e) is respectfully requested.

### **35 U.S.C. 103**

The Office Action rejects claims 1 – 6 and 8 – 10 under 35 U.S.C. 103(a) over Levy et al. (US Pub No. 2003/0021441 A1, hereinafter Levy), in view of Lofgren et al. (US 2002/0154144 A1, hereinafter Lofgren).

Applicants submit that for at least the following reasons, claims 1 – 6 and 8 – 10 are patentable over Levy and Lofgren, either singly or in combination.

As discussed above, claim 1, in part, requires:

*“if multiple second fingerprints are matched that have a mathematical distance measure less than a predefined limiting distance from the first fingerprint, calculating a digital watermark associated with the first data sequence and comparing the calculated digital watermark with watermarks respectively associated with the matched multiple second fingerprints’ respectively associated second digital data sequences in order to establish an identity of the first digital data sequence; otherwise, the first fingerprint is established as unique.”* (Emphasis added)

Although, Levy, paragraph [0054], discloses that in some implementations, a fingerprint is used to find a set of potential matches, Levy does not disclose any criteria for the set of potential matches. Specifically, Levy does not teach or suggest that the set of fingerprints have a mathematical distance measure less than a predefined limiting distance from the first fingerprint, as claimed.

In the Office Action, page 3, the Office stated that Levy, paragraph [0054], discloses “A fingerprint of the audio signal is compared against the fingerprints in the database to find a match or a closest approximation. In some implementations, a fingerprint is used to find a set of potential matches.” However, Applicants submit that a closest approximation does not imply that its mathematical distance measure is less than a predefined limiting distance from the first fingerprint, because a closest match can be farther than the predefined limiting distance as long as it is closer than any other fingerprints. Furthermore, a set of potential matches does not imply that the fingerprints in the set have a mathematical distance measure less than a predefined limiting distance from the first fingerprint, because a potential set can be formed by any rules, such as the first ten closest matches. The potential matches of Levy do not need to have any mathematical distance measure with respect to the fingerprint. Therefore, Levy does not teach or suggest the above claimed features. Applicants submit that Lofgren does not teach or suggest the missing features in Levy as discussed above.

In view of at least the foregoing, Applicants submit that claim 1 is patentable over Levy and Lofgren, either singly or in combination.

Applicants essentially repeat the above arguments for claim 1 and apply them to claims 4 and 8, pointing out why claims 4 and 8 are also patentable over Levy and Lofgren. Claims 2, 3, 5, 6, 9 and 10 respectively depend from and inherit all the respective features of claims 1, 4 or 8. Thus, claims 2, 3, 5, 6, 9 and 10 are patentable for at least the reason that they respectively depend from claims 1, 4 or 8, with each dependent claim containing further distinguishing features.

Withdrawal of the rejection of claims 1 – 6 and 8 – 10 under 35 U.S.C. 103(a) is respectfully requested.

**Conclusion**

In view of the foregoing, Applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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